

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, CHENNAI

MA/1234/2019

IN

CP/628/IB/CB/2017

*Application filed under sections 30 & 31 of the IBC, 2016
R/w Regulation 39 of IBBI (IRP for Corporate Persons) Regulations, 2016*

In the matter of Royal Splendour Developers Private Limited

Kavitha Surana

...Applicant

Resolution Professional

Representing Corporate Debtor

(Royal Splendour Developers Private Limited)

Order delivered on: 23.12.2019

Coram:

B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

Counsel for the Applicant : *Shri. B. Dhanaraj, Advocate*

Ms. Deepa Marriappan, Advocate

For Ms. Kavitha Surana, RP

Counsel for Home Buyers : *Shri. Karthik Sheshadri, Advocate*

Counsel for FC (DB) : *Ms. B. Nivedita, Advocate*

ORDER

Per: B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

Heard and dictated in Open Court on: 11.12.2019

It is an application filed by the Resolution Professional ("RP")
under Section 30 & 31 of the Insolvency & Bankruptcy Code, 2016
("the Code") for approval of the Resolution Plan by this Bench based

on the approval already given by the CoC in its Meeting held on 30.10.2019 with a voting share of 70.93%.

2. Looking at the application, it appears that this Resolution Plan given by this Applicant is valued at ₹25 Crores, out of which, the Resolution Applicant will infuse ₹15 Crores into the Corporate Debtor and the home buyers will infuse ₹15 Crores from their side so as to ensure that these home buyers will get flats and the remaining Financial Creditors viz., Bank of India, Dhanalaxmi Bank and Catholic Syrian Bank will get either land or money proportionate to 60% of their claim admitted by the Resolution Applicant which is as follows:

Sl. No.	Name of the Secured Financial Creditor	Principal Amount(₹)	Settlement as full and final settlement of the entire dues
1	Bank of India	14,07,02,366.00	18,000 square feet by way of constructed flats shall be provided by the Resolution Applicant.
2	Catholic Syrian Bank	5,23,49,910.00	OMR Land with approvals and the Kerala property which is already mortgaged by CD to CSB when the loan was availed

			shall be taken over by CSB as part of this plan.
3	Dhanalaxmi Bank Limited @ 60 %	2,00,82,712.00	1,20,49,628.00
	TOTAL	21,31,34,988.00	1,20,49,628.00

Sl. No.	Name of the Secured Financial Creditor	To be paid within 30 days from the date of approval of this Resolution Plan by Hon'ble NCLT (40%)	To be paid within 5 months from the date of approval of this Resolution Plan by Hon'ble NCLT (30%)	To be paid within 12 months from the date of approval of this Resolution Plan by Hon'ble NCLT (30%)
1	Dhanalaxmi Bank Limited	48,19,850	36,14,889	36,14,889
	TOTAL	48,19,850	36,14,889	36,14,889

3. With regard to Financial Creditors, they get 60% out of the principal amount payable to them, as to the Operational Creditor, they also get 60% out of the principal amount payable to them. In this Resolution Plan, workmen will also get 60% out of the principal amount payable by the Corporate Debtor. In respect to statutory dues of ₹14.55 Lakhs, the same will be paid by the promoter-directors. A provision is also set out for the directors to pay statutory

dues of ₹14.55 Lakhs but whereas, we are of the considered opinion that the person who already put all these home buyers in sufferance, we have a doubt as to whether he would do anything to the company or pay its dues to the statutory authorities.

4. In view of the same, as to taxes are concerned, we modify the Resolution Plan directing the Resolution Applicant to pay ₹14.55 Lakhs to the respective statutory authorities. The admitted claim against this Corporate Debtor is ₹64,56,36,381.

5. As to this case, this Company Petition was admitted on 04.12.2017, thereafter, at the time of admission itself, IRP viz., Mr. Arumugam was appointed to get the documents from these suspended directors but whereas, he failed to get the same. Thereafter, IRP was replaced by the present RP viz., Mrs. Kavitha Surana and with her efforts, she was able to take out the documents. After verification of the records available and the inputs given by the home buyers and the bank statements, ultimately, the RP collated the claims and constituted CoC with secured Financial Creditors and unsecured Financial Creditors including home buyers bringing their

representatives into CoC with an approval by this Bench. Thereafter, initially Resolution Applicant viz., Urban Tree Infrastructure Private Limited came with Expression of Interest ("EOI") but the same did not work out. Thereafter, the RP as well as CoC were successful in getting the approval of this Resolution Plan with a value aforementioned. It proves that this Resolution Applicant has not given Performance Guarantee for ₹75 Lakhs as contemplated under the amended Regulations with the apprehension that in the event the Resolution Plan is not through, then the money will remain struck. However, for this plan has come for approval before this Bench, we hereby hold that the Resolution Applicant shall submit Performance Guarantee as contemplated under the CIRP Regulations for the value aforementioned before implementation of the Resolution Plan.

6. As to approval of this Resolution Plan by CoC, though three Resolution Applicants came before the RP, two Expression of Interest filed by M/s. MIY Constructions and M/s. Pelicon Realty were rejected by the CoC on the ground that they have not met with the

eligibility criteria mentioned under the Regulations, the only plan that has come for approval of the CoC is the present Resolution Plan.

7. By looking at this application, the CoC having taken decision that the present Resolution Plan is beneficial to the Financial Creditors, Corporate Debtor and all other stakeholders, they have approved the Resolution Plan with a voting share of 70.93% on 30.10.2019.

8. We have not come across this Resolution Applicant asking any exemption towards the claims after approval of this plan, however, in any event, if any such exemption is mentioned anywhere in the plan that is not acceptable unless and until such relief is in accordance with law.

9. As to action to be taken by the Corporate Debtor mentioned in the Resolution Plan as well as another Clause mentioned under caption **"STEP: XI - ACTIONS TO BE TAKEN BY THE RESOLUTION APPLICANT - (4)"** in Page 25 of the Resolution Plan holding the suspended directors viz., *"Mr. Sivaramakrishnan and Mr. T.K. Santhosh should take the responsibility to get the Power of Attorney*

registered in favour of both new Builder/Contractor & Representatives of home buyers once the settlement of ₹85 Lakhs is made to Mr. Mukesh Jain (the current Power Agent)", we are of the view that the RP being the representative of the Corporate Debtor, the RP is entitled to execute the documents on behalf of the Corporate Debtor instead of asking the suspended directors who are no more representing the Corporate Debtor.

10. The exemptions if any sought in violation of any law in force, it is hereby clarified that such exemptions shall be construed as not granted. In view of the same, this plan is hereby **approved**.

11. Accordingly, this MA/1234/2019 is hereby **allowed**.

-Sd-
(S. VIJAYARAGHAVAN),
Member (Technical)

-Sd-
(B. S.V. PRAKASH KUMAR)
Member (Judicial)

VS/TJS